

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DAVID G. EBERSOLE,	:	
Plaintiff	:	Civil Action No. 3:01CV 01924
	:	
v.	:	
	:	
LIEUTENANT KECK, JOHN J.	:	
BENNING, Sr., BRUCE BURGESS,	:	Judge Jones
MIKE ENK, STEVE LIDDICK,	:	
ROBERT SHELLENBERGER,	:	
WILLIAM HARTLEY,	:	
ZODA ZAUERS, "JOHN DOE"	:	
GILNETTE, "R.H.U GUARDS	:	
( 1 <sup>st</sup> & 2 <sup>nd</sup> SHIFT, 9-10-01	:	
to 9-21-01)," all employees of	:	
SCI-Camp Hill,	:	
Defendants	:	

**ORDER**

**August1, 2005**

**THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:**

On May 26, 2005, we transferred the above-captioned action to Magistrate Judge Thomas M. Blewitt for resolution of the then pending discovery motions. On July 7, 2005, the Magistrate Judge issued an Order resolving the pending discovery motions. (Rec. Doc. 190). On July 21, 2005, the Magistrate Judge issued an order vacating the July 7 Order because it was missing page 10. (Rec. Doc. 195). The Magistrate Judge then reissued the July 7 Order in its complete

form. Id. Subsequently, Plaintiff filed a Nunc Pro Tunc-Filed Appeal of Magistrate Judge's Discovery Ruling & Pursuant to Provision of 28 U.S.C. [§] 636 (Rec. Doc. 196).<sup>1</sup> We will construe this Appeal as a Motion to reconsider the Magistrate Judge's July 21, 2005 Order.

Pursuant to 28 U.S.C. § 636(b)(1)(A), we may only disturb the Magistrate Judge's Order if it is "clearly erroneous or contrary to law." Upon review, we are neither persuaded by any of the Plaintiff's objections nor do we find that any portion of the Magistrate Judge's Order is either clearly erroneous or contrary to law.

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. Plaintiff's Nunc Pro Tunc-Filed Appeal of Magistrate Judge's Discovery Ruling & Pursuant to Provision of 28 U.S.C. [§] 636 (Rec. Doc. 196) construed as a Motion for Nunc Pro Tunc review of the Magistrate Judge's July 21, 2005 Order is DENIED.

s/ John E. Jones III  
John E. Jones III  
United States District Judge

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<sup>1</sup> In that Plaintiff's Appeal references the July 7, 2005 Order from the Magistrate Judge, it is likely that Plaintiff filed his instant Appeal prior to receiving the corrected discovery Order issued on July 21, 2005.